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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/500,906	07/02/2004	Ole Petter Wullum	OPA 322	9012
23581	7590	10/12/2007		
KOLISCH HARTWELL, P.C. 520 SW YAMHILL STREET, Suite 200 PORTLAND, OR 97204			EXAMINER WHITE, RODNEY BARNETT	
			ART UNIT 3636	PAPER NUMBER
			MAIL DATE 10/12/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/500,906	<b>Applicant(s)</b> WULLUM, OLE PETTER	
	<b>Examiner</b> Rodney B. White	<b>Art Unit</b> 3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 02 October 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 11-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11-18 and 20-23 is/are rejected.
- 7) ☒ Claim(s) 19 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Amendment***

Applicant's arguments filed 10/01/2007 have been fully considered but they are not persuasive.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 16 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 16, line 6, "the desired point" lacks antecedent basis.

The aforementioned problem renders the claims vague and indefinite.

Clarification and/or correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 11-18 and 20-23, so far as understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Piretti (U.S. Patent No. 4,909,472)

Piretti teaches a chair comprising a mobile joint (4) for a seating construction for mounting between a seat device (1) of a seating construction and a support (5) for said seat device (1), comprising at least two joint elements (8,9) wherein each joint element pivotable to a limited degree in relation to each joint element that it is connected to, permitting the mobile joint (4) to pivot between two extreme positions in order to allow a tilting movement of the seat device (1), effected by the user's weight displacement, wherein the mobile joint contains a first joint element (8) mountable at a first end to the support (5) and at a second end only mounted pivotally to a first end of a middle joint element (10) at a first rotational axis (11), and further containing a second joint element (9) mountable at a first end to the seat device (1) and in the second end only mounted pivotally to a second end of the middle joint element (10) in a second rotational axis (12), wherein the said rotational axes (11,12) are horizontally displaced in relation to each other, and whereby the joint (4) assumes a stable tilting position between the two extreme positions when the user's center of gravity is above a point between the first and second rotational axes (since the user can adjust the load of the springs to obtain the desired degree of comfort), wherein the middle joint element (10) consists of a

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number of joint sub-elements, wherein the mobile joint (4) is configured to assume a number of additional stable tilting positions between the two extreme positions, the horizontal distance between the rotational axes (11,12) is about 5-15 cm, the tilted positions of each joint element are restricted by pairs of reciprocally cooperating fitting surfaces (See Figures 3-5) where each pair of reciprocally cooperating fitting surfaces is configured to abut when a joint element is pivoted to a desired point, thereby hindering further movement of the joint element, wherein one or both members of at least one pair of cooperating fitting surfaces is equipped with a stopper (44,46) wherein the stopper is configured to dampen the impact of the pair of cooperating fitting surfaces when the corresponding joint element is pivoted to the desired point, at least two of the joint elements are spring-loaded in relation to each other, the spring-load is created by a spring coil 13a,13b,14a, the spring load is adjustable by knob 37 (See column 5, lines 14-16), the first and second joint elements have different spring-loads in relation to the middle joint element, the first and second joint elements have different spring-loads in relation to the middle joint element, at least two joint elements are lockable in relation to each other.

Claim 19 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### Remarks

As stated in the previous office action (the Advisory Action mailed 08/15/2007), the Piretti patent still reads 102(b) over Claim 11 because certain features that the Applicant argues are not taught by the prior art still are not clearly defined in the claims. While Applicant argues why Piretti does not disclose a mobile joint like that of the present invention, he still failed or did not bother to clarify the questionable limitations pointed out in the Advisory Action. Applicant still did not describe let alone add language to the claim to explain how the "rotational axes (40,50) are horizontally displaced" when the distance between those two axes remain constant? As stated previously, the length of "middle element 20" stays the same and the two ends on the "middle element 20" where the rotational axes 40,50 are located do not appear to be slidable with respect to one another, so the distance between those two axes stays the same. While Applicant has added language that defines "how", "the joint (1) assumes a stable tilting position between the two extreme positions", which is supposedly achieved "when the user's center of gravity is above a point between the first and second rotational axes", is this limitation true for all user's of a chair containing the mobile joint" of the present invention? And it still is not clear how the center of gravity can result in the elements, which are merely pivotally attached to one another, being capable of remaining in a stable position without tightening of the pivots, locks, or adjustable springs. As stated earlier, it is true that Piretti has resilient elements 13a and 14a that provides a constant bias to the seat support member towards an upwardly position.

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However, the specification of Piretti does disclose that the user can adjust the load of the springs to obtain a desired degree of comfort, i.e. a stable tilting position. Unlike Piretti, Applicant still has not provided any structure in Claim 11 that allows "the joint (1) assumes a stable tilting position between the two extreme positions". Applicant has only disclosed "joint elements" that are pivotable with respect to one another. Applicant has not disclosed any springs, tightening mechanisms, or any other parts or structures that allows a "stable tilting position". For example, two or three levers can be pivotally attached to one another by a rivet or a pin, but will those two or three levers function like Applicant says his invention does without any special parts, structures, or mechanisms? Also, in Claim 1, Applicant defines at least two joint elements (10,30) wherein each joint element is pivotable to a limited degree in relation to each joint element that it is connected to. That limitation does not appear to be true since "joint element 10" does not appear to pivot at all and is not shown pivoted to any degree in any of the Figures. The only parts that appear to pivot are "middle joint element 20" and "joint element 30". But most importantly, Applicant has not provided any structure that allows the "joint 1" to assume a stable tilting position without any springs, tightening, or locking mechanisms. Currently, Claim 11 is full of joint elements pivotally attached to one another. In fact, Applicant does not mention any springs, spring adjustability, or locking capabilities until claims 17-22. Unfortunately, Piretti also teaches those features except for the limitation that the spring is a torsion spring as defined in claim 19 and which has been objected to be as allowable subject matter. And even if Piretti does not function in the same way as the present invention, it still has all of the structure defined in the claims 11-16 and

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attached to one another in the same way. Applicant has a lot of work to do to clearly define his invention and explain how it works in the claims and not in his arguments. Patents are granted on the basis of clearly constructed claims, not on what Applicant says his invention does or how he says it functions without proper structural support within the claims or what is disclosed in the specification. Applicant is still encouraged to an interview to possibly clarify his invention and possibly add language to the claims that clarify so many questions. It would appear that at this point an interview would not help since the only patentable feature at this point appears to be in claim 19.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

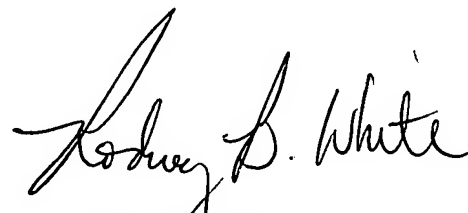


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rodney B. White whose telephone number is (571) 272-6863. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Dunn can be reached on (571) 272-6670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Rodney B. White,  
Patent Examiner  
Art Unit 3636  
October 11, 2007



RODNEY B. WHITE  
PRIMARY EXAMINER